

Philip A. Rush, OSB No. 893526

prush@martinbischoff.com

Michael J. Farrell, OSB No. 902587

mfarrell@martinbischoff.com

Alice S. Newlin, OSB No. 084314

anewlin@martinbischoff.com

MARTIN BISCHOFF TEMPLETON LANGSLET & HOFFMAN LLP

888 SW Fifth Avenue, Suite 900

Portland, OR 97204

Telephone: (503) 224-3113

Facsimile: (503) 224-9471

Attorneys for Counterclaim-Defendant Federal
Home Loan Mortgage Corporation

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Portland Division

COUNTY OF MULTNOMAH,

Plaintiff,

v.

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.**, a Delaware corporation, et al.,

Defendants.

Case No. 3:15-cv-01246-PK

COUNTERCLAIM-DEFENDANT
FEDERAL HOME LOAN
MORTGAGE CORPORATION'S
ANSWER AND AFFIRMATIVE
DEFENSES TO COUNTERCLAIMS

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,**

Defendant/Counterclaim-Plaintiff,

v.

COUNTY OF MULTNOMAH,

Plaintiff/Counterclaim-Defendant,

and

**FEDERAL HOME LOAN MORTGAGE
CORPORATION, and FEDERAL NATIONAL
MORTGAGE ASSOCIATION,**

Counterclaim-Defendants.

In response to the counterclaims alleged in Counterclaim Plaintiff Mortgage Electronic Registration Systems, Inc.'s ("MERS") Answer and Affirmative Defenses and Counterclaims ("the Counterclaims"), Counterclaim Defendant Federal Home Loan Mortgage Corporation ("Freddie Mac") admits, denies, and affirmatively alleges as follows.

1. Freddie Mac admits the allegations in Paragraph 1 of the Counterclaims.
2. Freddie Mac admits the allegations in Paragraph 2 of the Counterclaims.
3. Freddie Mac admits the allegations in Paragraph 3 of the Counterclaims.
4. Paragraph 4 states conclusions of law, and therefore, no response from Freddie

Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in the first sentence of Paragraph 4 of the Counterclaims. Freddie Mac further admits that, to the extent that plaintiff Multnomah County in its Third Amended Complaint seeks to invalidate recorded Freddie Mac deeds of trust and/or deprive Freddie Mac of the priority of its lien, Freddie Mac has an interest that would be affected by the counterclaims.

5. Paragraph 5 states conclusions of law, and therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in the first sentence of Paragraph 5 of the Counterclaims. Freddie Mac further admits that, to the extent that the Third Amended Complaint seeks to invalidate recorded Fannie Mae deeds of trust and/or deprive Fannie Mae of the priority of its lien, Fannie Mae has an interest that would be affected by the counterclaims.

6. Freddie Mac admits the allegations in Paragraph 6 of the Counterclaims.

7. Paragraph 7 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 7.

8. Paragraph 8 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 8.

9. Paragraph 9 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 9.

10. Paragraph 10 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 10.

11. Paragraph 11 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the allegations in Paragraph 11.

12. Freddie Mac admits the allegations in Paragraph 12 of the Counterclaims.

13. Paragraph 13 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac refers to the Governing Documents for the contents thereof.

14. Paragraph 14 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits that MERS is

permitted to serve as the nominee on a deed of trust for the Lender and for any successors and assigns of the Lender, who are also members of the MERS® System.

15. Freddie Mac admits the allegations in Paragraph 15 of the Counterclaims.

COUNT I

Declaratory Relief

16. Paragraph 16 incorporates the allegations of the previous paragraphs 1 through 15 and no additional response is required. To the extent a response is required, Freddie Mac incorporates its previous answers to paragraphs 1 through 15 above, as if fully set forth herein.

17. Freddie Mac lacks sufficient information and belief to admit or deny the allegations in Paragraph 17 of the Counterclaims.

18. Freddie Mac lacks sufficient information and belief to admit or deny the allegations in Paragraph 18 of the Counterclaims.

19. Freddie Mac refers to the Freddie Mac Trust Deed attached to the Counterclaims as Exhibit 1 for the contents thereof. Freddie Mac further admits that it currently holds the Freddie Mac note, which is secured by the Freddie Mac Trust Deed recorded on February 10, 2014.

20. Freddie Mac admits the allegations in Paragraph 20 of the Counterclaims.

21. Freddie Mac refers to the Freddie Mac Trust Deed for the contents thereof.

22. Freddie Mac admits that the Freddie Mac Trust Deed was presented and accepted for recording, and that presumably the County determined that all of the legal requirements for recording a trust deed were met.

23. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 23, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

24. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 24, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

25. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 25, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

26. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 26, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

27. Paragraph 27 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac refers to the decision in

Niday for the holding thereof. Freddie Mac further admits that it is not counter to public policy or Oregon law for MERS to be designated as the beneficiary on a trust deed as the nominee for the lender and its successors and assigns.

28. Paragraph 28 states a conclusion of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac refers to the decisions in *Brandrup* and *Niday* for the contents thereof.

29. Freddie Mac refers to the Third Amended Complaint for the allegations contained therein and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits the County has made the allegations set forth in paragraph 29, but denies such allegations in their entirety to the extent such allegations attempt to invalidate in any manner the perfected security interest of the Freddie Mac Trust Deed and Note.

30. Freddie Mac admits the allegations in Paragraph 30.

31. Freddie Mac admits the allegations in Paragraph 31.

32. Paragraph 32 states conclusions of law and, therefore, no response from Freddie Mac is necessary. To the extent that a response is required, Freddie Mac admits that MERS is seeking such relief.

COUNT II

Declaratory Relief

33. Paragraph 33 incorporates the allegations of the previous paragraphs and no additional response is required. To the extent a response is required, Freddie Mac incorporates its previous answers, as if fully set forth herein.

34. The allegations of paragraph 34 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac lacks sufficient information and belief to admit or deny the allegations of Paragraph 34 and, therefore, denies the same.

35. The allegations of paragraph 35 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac lacks sufficient information and belief to admit or deny the allegations of Paragraph 35 and, therefore, denies the same.

36. The allegations of paragraph 36 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac lacks sufficient information and belief to admit or deny the allegations of Paragraph 36 and, therefore, denies the same.

37. The allegations of paragraph 37 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required.

38. The allegations of paragraph 38 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to Exhibit B to the Counterclaims for the contents thereof.

39. The allegations of paragraph 39 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to Exhibit B to the Counterclaims for the contents thereof.

40. The allegations of paragraph 40 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to Exhibit B to the Counterclaims for the contents thereof.

41. The allegations of paragraph 41 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac lacks sufficient information and belief to admit or deny the allegations of Paragraph 41 and, therefore, denies the same.

42. The allegations of paragraph 42 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to the Third Amended Complaint for the contents thereof.

43. The allegations of paragraph 43 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to the Third Amended Complaint for the contents thereof.

44. The allegations of paragraph 44 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to the Third Amended Complaint for the contents thereof.

45. The allegations of paragraph 45 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac admits that it is not counter to public policy or Oregon law for MERS to be designated as the beneficiary on a trust deed as the nominee for the lender and its successors and assigns.

46. The allegations of paragraph 46 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required. To the extent that a response is required, Freddie Mac refers to the decisions in *Brandrup* and *Niday* for the contents thereof.

47. The allegations of paragraph 47 are directed against a third-party defendant other than Freddie Mac and, therefore, no response is required. To the extent a response is required, Freddie Mac refers to the Third Amended Complaint for the contents thereof.

48. The allegations of paragraph 48 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required.

49. The allegations of paragraph 49 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required.

50. The allegations of paragraph 50 are directed against a counterclaim defendant other than Freddie Mac and, therefore, no response is required.

AFFIRMATIVE DEFENSES

For its affirmative defenses, Freddie Mac states as follows:

FIRST AFFIRMATIVE DEFENSE

(Affirmative Defenses Reserved)

51. Freddie Mac alleges that at this time it has insufficient knowledge or information on which form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Freddie Mac, therefore, reserves the right to assert additional affirmative defenses in the event that discovery indicates they would be appropriate.

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WHEREFORE, Freddie Mac prays for a judgment from this Court:

1. That protects Freddie Mac's rights and interests under its Trust Deed and Note, finding that the Freddie Mac Trust Deed is a valid lien.
2. That protects Freddie Mac's rights and interests under its Trust Deed and Note, finding that, Freddie Mac, as the current holder of the Freddie Mac Note, is entitled to the priority of the lien that was obtained when the Freddie Mac Trust Deed was recorded on February 10, 2014.
3. For such relief as this Court deems appropriate; and,
4. Awarding Freddie Mac its costs and disbursements, and its reasonable attorney's fees, to the extent allowed by law, and expenses incurred in defending this action.

DATED: July 23, 2015.

MARTIN, BISCHOFF, TEMPLETON,
LANGSLET & HOFFMAN, LLP

By: s/ Philip A. Rush
Philip A. Rush, OSB #893526
Email: prush@martinbischoff.com
Michael J. Farrell, OSB #902587
Email: mfarrell@martinbischoff.com
Alice S. Newlin, OSB #084314
Email: anewlin@martinbischoff.com
Tel: (503) 224-3113
Fax: (503) 224-9471

Mark S. Landman, admitted pro hac vice
Email: mlandman@lcbf.com
Landman Corsi Ballaine & Ford, PC
120 Broadway
New York, NY 10271
Tel: (212) 238-4880

*Attorneys for Counterclaim-Defendant Federal Home
Loan Mortgage Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2015, I served a copy of the foregoing COUNTERCLAIM-DEFENDANT FEDERAL HOME LOAN MORTGAGE CORPORATION'S ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS on the attorneys for the parties listed below by causing a true copy thereof to be sent to each attorney's last known e-mail address as specified below:

Gregory A. Chaimov Davis Wright Tremaine LLP 1300 SW Fifth Avenue, Suite 2400 Portland, OR 97201-5610 Email: gregorychaimov@dwt.com <i>Attorneys for Defendants Mortgage Electronic Registration Systems, Inc.; MERSCORP Holdings, Inc.; JP Morgan Chase Bank and WMC Mortgage LLC, as successor in interest to WMC Mortgage Corp.</i>	Thomas D'Amore Nicholas A. Kahl D'Amore Law Group 4230 Galewood St., Suite 200 Lake Oswego, OR 97025 Email: tom@damorelaw.com ; nkahl@damorelaw.com <i>Of Attorneys for Plaintiff</i>
Pilar C. French Brian T. Kiolbasa Robert E. Maloney, Jr. Lane Powell PC 601 SW Second Ave., Suite 2100 Portland, OR 97204-3158 Email: frenchp@lanepowell.com ; kiolbasab@lanepowell.com ; maloneyr@lanepowell.com <i>Attorneys for Bank of America, NA, dba Banc of America Investment Services, Inc.; Everbank Mortgage Company, and Wells Fargo Bank N.A.</i>	Russell D. Garrett Leta E. Gorman Jordan Ramis 2 Centerpointe Dr., 6 th Fl. Lake Oswego, OR 97035 Email: russ.garrett@jordanramis.com ; leta.gorman@jordanramis.com <i>Attorneys for CitiMortgage, Inc.</i>
Erich M. Paetsch Saalfeld Griggs PC 250 Church Street SE, Suite 300 PO Box 470 Salem, OR 97308 Email: epaetsch@sglaw.com <i>Attorneys for Columbia State Bank, successor in interest by merger to West Coast Bank, and Citizens Bank</i>	Joseph F. Savage Jr., <i>admitted pro hac vice</i> Yvonne W. Chan, <i>admitted pro hac vice</i> Goodwin Procter LLP 53 State Street Boston, MA 02109-2802 Email: jsavage@goodwinproctor.com ; ychan@goodwinproctor.com <i>Of Attorneys for Defendants Bank of America, N.A. and Wells Fargo Bank, N.A.</i>
Fred Burnside Davis Wright Tremaine 1201 Third Ave., Suite 2200 Seattle, WA 98101-3045 Email: fredburnside@dwt.com <i>Of Attorneys for Defendants MERS and MERSCORP Holdings, Inc.</i>	Brent L. Crumpton, <i>admitted pro hac vice</i> 3755 Village Ln. Birmingham, AL 35233 Email: blc@crumptonlaw.com <i>Of Attorneys for Plaintiff</i>

<p>Robert M. Brochin, <i>admitted pro hac vice</i> Clay M. Carlton, <i>admitted pro hac vice</i> David W. Marston, Jr., <i>admitted pro hac vice</i> Morgan Lewis & Beckius LLP 200 S Biscayne Blvd. Suite 5300 Miami, FL 33131-2310 Email: rbrochin@morganlewis.com; ccarlton@morganlewis.com; dmarston@morganlewis.com <i>Of Attorneys for Defendants MERS and MERSCORP Holdings, Inc.</i></p>	<p>Thomas V. Panoff, <i>admitted pro hac vice</i> Lucia Nale, <i>admitted pro hac vice</i> Christopher S. Comstock, <i>admitted pro hac vice</i> Thomas P. Evans, <i>admitted pro hac vice</i> Mayer Brown LLP 71 South Wacker Dr. Chicago, IL 60606 Email: tpanoff@mayerbrown.com; lnale@mayerbrown.com; ccomstock@mayerbrown.com; tevans@mayerbrown.com <i>Of Attorneys for Defendant CitiMortgage, Inc.</i></p>
<p>Gregory J. Marshall, <i>admitted pro hac vice</i> Snell & Wilmer 400 E. Van Buren St., Suite 1900 Phoenix AZ 85004-2202 Email: gmarshall@swlaw.com <i>Of Attorneys for Defendant SunTrust Mortgage, Inc.</i></p>	<p>Matthew P. Previn, <i>admitted pro hac vice</i> Buckley Sandler LLP 1133 Avenue of the Americas Suite 3100 New York, NY 10036 Email: mprevin@buckleysandler.com <i>Of Attorneys for JP Morgan Chase Bank and WMC Mortgage LLC, as successor in interest to WMC Mortgage Corp.</i></p>
<p>Andrew R. Louis Buckley Sandler LLP 1250 24th St. NW, Suite 700 Washington DC 20037 Email: alouis@buckleysandler.com <i>Of Attorneys for JP Morgan Chase Bank and WMC Mortgage LLC, as successor in interest to WMC Mortgage Corp.</i></p>	<p>Shawn J. Larsen-Bright Dorsey & Whitney LLP 701 Fifth Avenue, Suite 6100 Seattle, WA 98104-7043 Email: Larsen.bright.shawn@dorsey.com; sterner.nelson.amy@dorsey.com; carter.peter@dorsey.com <i>Of Attorneys for Defendant U.S. Bank National Association, in its individual capacity</i></p>
<p>B. John Casey K&L Gates LLP One SW Columbia St., Suite 1900 Portland, OR 97258 Email: john.casey@klgates.com <i>Of Attorneys for Defendant SunTrust Mortgage, Inc.</i></p>	<p>Henry F. Reichner, <i>admitted pro hac vice</i> Reed Smith LLP Three Logan Square Suite 3100 1717 Arch St. Philadelphia PA 19103 Email: hreichner@reedsmith.com <i>Of Attorneys for Defendant U.S. Bank, N.A. in its capacity as trustee of any specific residential mortgage-backed securitization trusts at issue</i></p>

<p>William L. Larkins, Jr. Larkins Vacura LLP 121 SW Morrison St., Suite 700 Portland, OR 97205 Email: w.larkins@larkinsvacura.com <i>Of Attorneys for Defendant U.S. Bank, N.A. in its capacity as trustee of any specific residential mortgage-backed securitization trusts at issue</i></p>	<p>Craig L. Lowell, <i>admitted pro hac vice</i> Wiggins, Childs, Quinn & Pantazis LLC 301 19th St. N. Birmingham, AL 35203 Email: c.lowell@wcqp.com <i>Of Attorneys for Plaintiff</i></p>
<p>Joseph F. Yenouskas, <i>admitted pro hac vice</i> Thomas M. Hefferon, <i>admitted pro hac vice</i> Goodwin Procter LLP 901 New York Avenue NW Washington DC 20001-4432 Email: j.yenouskas@goodwinprocter.com; t.hefferon@goodwinprocter.com <i>Of Attorneys for Defendants Bank of America, N.A. and Wells Fargo Bank N.A.</i></p>	<p>Amy F. Sorenson, <i>admitted pro hac vice</i> Snell & Wilmer LLP 15 W. South Temple, Suite 1200 Salt Lake City, UT 84101 Email: a.sorenson@swlaw.com <i>Of Attorneys for Defendant SunTrust Mortgage, Inc.</i></p>
<p>Paul R. Dieseth, <i>admitted pro hac vice</i> Dorsey & Whitney LLP 50 South Sixth St., Suite 1500 Minneapolis, MN 55402 Email: p.dieseth@dorsey.com <i>Of Attorneys for Defendant U.S. Bank National Association, in its individual capacity</i></p>	

MARTIN, BISCHOFF, TEMPLETON,
LANGSLET & HOFFMAN LLP

By: s/ Philip A. Rush
Philip A. Rush, OSB #893526
Michael J. Farrell, OSB #902587
Alice S. Newlin, OSB #084314
Of Attorneys for Counterclaim-Defendant Federal Home Loan Mortgage Corporation